

REMARKS

In the Office Action of March 9, 2010,¹ claims 1-33 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 1-5, 7-16, 18-27, and 29-33 were rejected under 35 U.S.C. § 103(a) as being allegedly obvious over U.S. Patent No. 6,453,038 to McFarlane et al. ("*McFarlane*") in view of U.S. Patent No. 6,128,380 to Shaffer et al. ("*Shaffer*") and further in view of U.S. Patent No. 5,633,924 to Kaish et al. ("*Kaish*"). Claims 6, 17, and 28 were rejected under 35 U.S.C. § 103(a) as being allegedly obvious over *McFarlane* in view of *Shaffer*, further in view of *Kaish* and further in view of U.S. Patent No. 6,901,380 to Bremers ("*Bremers*").

By this Amendment, Applicants have amended the specification and claims. These amendments are made without prejudice or disclaimer. No new matter has been introduced. Claims 1-33 are currently under examination.

1. Rejections Under 35 U.S.C. § 112

The Office Action rejects claims 1-33 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner states that "only one element in the specification dealing explicitly with rules" was found and that "[r]egardless of what was... intended to be claimed... there appears to be no direct support for 'wherein the synchronization is rule-based' in the independent claims." (Office Action at pp. 5-6). Applicants respectfully disagree with Examiner's statements.

¹ The Office Action may contain statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

According to the MPEP, the “subject matter of the claim need not be described literally (i.e. using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement.” See M.P.E.P. § 2163.02. Rather, “claim limitations must be supported in the specification through express, *implicit*, or *inherent* disclosure.” See M.P.E.P. § 2163(I)(B) (emphasis added). Applicants respectfully assert that this standard is met in view of the Specification’s disclosure in paragraph 0010 that “...at a *predetermined interval*, the routing system may be synchronized with the new data in the central skill database” (emphasis added). Furthermore, at paragraph 0027, the Specification teaches that “updat[ing] the skill tracking system... and... synchroniz[ing] the routing system... is done an *adjustable, periodic* interval” (emphasis added). Additionally, this paragraph of the Specification teaches that “a second workflow... initiates an intermediary process to mimic... administration of the agent skill information of the routing system.”

At least these passages of the Specification provide support for the claimed subject matter. Nonetheless, in an effort to advance prosecution, Applicants have amended paragraph 0027 of the Specification to expressly describe a workflow as a “series of actions triggered by the fulfillment of a set of conditions described in a policy.” Thus, because the Specification provides support for the claimed subject matter for at least the forgoing reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-33 under 35 U.S.C. § 112, first paragraph.

2. Rejections Under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejections of (1) claims 1-5, 7-16, 18-27, and 29-33 as being unpatentable over *McFarlane* in view of *Shaffer* and *Kaish* and (2)

claims 6, 17, and 28 as being unpatentable over *McFarlane* in view of *Shaffer*, *Kaish* and *Bremers*.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. See M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007). The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit and stated that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” See M.P.E.P. § 2141. In comparing the claim to the prior art, three factual inquiries must be addressed: (1) the scope and content of the prior art must be ascertained; (2) the differences between the claimed invention and the prior art must be determined; and (3) the level of ordinary skill in the pertinent art at the time of the invention was made must be evaluated. See *id.*

Applicants have considered the Examiner’s arguments with respect to obviousness and, in order to address the Examiner’s concerns, Applicants have amended the independent claims so as to recite rule-based selective synchronization. Applicants nevertheless respectfully submit that a *prima facie* case of obviousness has not been established in this application because the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the claimed invention as amended and the prior art. Accordingly, Applicants respectfully assert that the Office Action has failed to clearly articulate a reason why the prior art would have rendered the claimed invention obvious to one of ordinary skill in the art.

a. Rejection of Claims 1-5, 7-16, 18-27 and 29-33 Under § 103(a)

Claim 1, as amended, recites, in part, “selectively synchronizing routing logic of a routing system... wherein the synchronizing is *conditional*, rule-based and independent of the updating” (emphasis added). Independent claims 8, 12, 19, 23 and 30 recite similar elements.

The Office Action alleges that cols. 5-6, lines 41-15 of *Shaffer* disclose “automatically updat[ing]” the skill profile and that such “synchronizing is rule-based in that once training data (skills) is updated (a rule) the system synchronizes the routing system to redefine queues and agent groups...” See Office Action, pg. 10. This disclosure in *Shaffer*, however, does not teach or suggest “selectively synchronizing routing logic of a routing system... wherein the synchronizing is *conditional*, rule-based and independent of the updating,” as recited in amended claim 1, at least because *Shaffer*’s automatic updating does not contain the element of conditionality found in a workflow (emphasis added). Applicants respectfully assert that any such disclosure, in which synchronization occurs irrespective of system conditions (which could be pre-defined in a workflow), lacks the element of conditional synchronization taught by the invention.

McFarlane fails to remedy this deficiency, as the Office Action acknowledges. See Office action pp. 9 (“McFarlane... does not expressly teach... selectively synchronizing... routing logic of a routing system”). Indeed, *McFarlane* is completely silent regarding “selectively synchronizing routing logic of a routing system... wherein the synchronizing is *conditional*, rule-based and independent of the updating” (emphasis added).

Similarly, *Kaish* fails to teach or suggest “selectively synchronizing routing logic of a routing system... wherein the synchronizing is *conditional*, rule-based and independent of the updating,” as recited in amended claim 1 (emphasis added).

While Applicants respectfully disagree with the Examiner’s arguments concerning obviousness, Applicants have amended claim 1 to recite conditional synchronization in order to further distinguish the invention from the art cited by the Examiner, which does not include this feature. In view of this amendment, Applicants respectfully assert that the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the substantial differences between the prior art and the invention as a whole recited in claim 1, as amended. Accordingly, Applicants proffer that the Office Action does not clearly articulate a reason why amended claim 1 would have been obvious to one of ordinary skill in view of the prior art. Therefore, Applicants respectfully submit that a *prima facie* case of obviousness has not been established for amended independent claim 1 and requests that the Examiner withdraw the rejection of this claim.

Amended independent claims 8, 12, 19, 23 and 30, although of different scope, recite features similar to those of claim 1, and thus are allowable for at least the same reasons. Claims 2-5, 7, 9-11, 13-16, 18, 20-22, 24-27, 29 and 31-33 depend from claims 1 8, 12, 19, 23 or 30 and thus require all of the elements recited therein, and are allowable for the same reasons, as well as by reason of reciting additional features not taught or suggested by the cited references. Accordingly, for at least the reasons discussed above, Applicants respectfully request withdrawal of the rejection of claims 1-5, 7-16, 18-27 and 29-33 under 35 U.S.C. § 103(a).

b. Rejection of Claims 6, 17 and 28 Under § 103(a)

Claims 6, 17 and 28 depend from claims 1, 12 and 23 respectively, and thus require all of the elements recited therein. As explained above, neither *McFarlane*, *Shaffer* nor *Kaish* discloses “selectively synchronizing routing logic of a routing system... wherein the synchronizing is *conditional*, rule-based and independent of the updating,” as recited in amended claim 1 and similar recitations in amended claims 8, 12 and 23.

Bremers fails to remedy this deficiency and the Office Action does not assert otherwise, as it is merely relied upon as allegedly teaching *automatic* synchronization of databases according to a synchronization schedule. See Office Action pp. 22. Indeed, *Bremers* is silent regarding “selectively synchronizing routing logic of a routing system... wherein the synchronizing is *conditional*, rule-based and independent of the updating” (emphasis added) or the similar recitation of the independent claims. Accordingly, for at least the reasons discussed above, claims 6, 17 and 28 are allowable, and Applicants respectfully request withdrawal of the rejection of claims 6, 17, and 28 under 35 U.S.C. § 103(a).

In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: June 3, 2010

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